

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00150

SHAWN DAVID WHITE

**MEMORANDUM OPINION AND ORDER**

Pending before the court is defendant's motion to schedule a guilty plea hearing and continue trial in this matter. See ECF No. 26. In support of the motion to continue, counsel indicates that additional time is necessary for defendant to apply to the Alternative Treatment Court ("ATC") which does not reconvene until January 12, 2023. Once defendant has applied to the ATC, it will also take approximately a week to find out if his application is successful. Whether defendant is allowed to participate in the ATC will affect the nature of any guilty plea proceedings and defendant requests that he be permitted to enter a guilty plea only after he finds out if he will be admitted to the ATC.

Counsel for defendant has indicated that additional time would allow her to work toward securing a more favorable outcome, i.e., participation in the ATC, for her client. Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the



motion to continue. In so deciding, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to grant a continuance would not only likely result in a miscarriage of justice but would also deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. A plea hearing in this matter is hereby scheduled for January 31, 2023, at 11:30 a.m., in Charleston;
2. Trial of this action is continued until February 7, 2023, at 9:30 a.m., in Charleston. Jury instructions and proposed voir dire are to be filed by February 1, 2023; and
3. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 5th day of January, 2023.

ENTER:



David A. Faber

Senior United States District Judge